

Senate Engrossed

State of Arizona  
Senate  
Forty-seventh Legislature  
First Regular Session  
2005

CHAPTER 2

**SENATE BILL 1372**

AN ACT

AMENDING SECTION 13-604.01, ARIZONA REVISED STATUTES; AMENDING TITLE 13, CHAPTER 13, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 13-1306, 13-1307, 13-1308 AND 13-1309; AMENDING TITLE 13, CHAPTER 23, ARIZONA REVISED STATUTES, BY ADDING SECTION 13-2319; RELATING TO HUMAN TRAFFICKING.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 13-604.01, Arizona Revised Statutes, is amended to  
3 read:

4 13-604.01. Dangerous crimes against children; sentences;  
5 definitions

6 A. A person who is at least eighteen years of age and who stands  
7 convicted of a dangerous crime against children in the first degree involving  
8 sexual assault of a minor who is twelve years of age or younger or sexual  
9 conduct with a minor who is twelve years of age or younger shall be sentenced  
10 to life imprisonment and is not eligible for suspension of sentence,  
11 probation, pardon or release from confinement on any basis except as  
12 specifically authorized by section 31-233, subsection A or B until the person  
13 has served thirty-five years or the sentence is commuted. This subsection  
14 does not apply to masturbatory contact.

15 B. Except as otherwise provided in this section, a person who is at  
16 least eighteen years of age or who has been tried as an adult and who stands  
17 convicted of a dangerous crime against children in the first degree involving  
18 attempted first degree murder of a minor who is under twelve years of age or  
19 second degree murder of a minor who is under twelve years of age or sexual  
20 assault of a minor who is under twelve years of age or sexual conduct with a  
21 minor who is under twelve years of age may be sentenced to life imprisonment  
22 and is not eligible for suspension of sentence, probation, pardon or release  
23 from confinement on any basis except as specifically authorized by section  
24 31-233, subsection A or B until the person has served thirty-five years or  
25 the sentence is commuted. If a life sentence is not imposed pursuant to this  
26 subsection, the person shall be sentenced to a presumptive term of  
27 imprisonment for twenty years.

28 C. Except as otherwise provided in this section, a person who is at  
29 least eighteen years of age or who has been tried as an adult and who stands  
30 convicted of a dangerous crime against children in the first degree involving  
31 attempted first degree murder of a minor who is twelve, thirteen or fourteen  
32 years of age, second degree murder of a minor who is twelve, thirteen or  
33 fourteen years of age, sexual assault of a minor who is twelve, thirteen or  
34 fourteen years of age, taking a child for the purpose of prostitution, child  
35 prostitution, sexual conduct with a minor who is twelve, thirteen or fourteen  
36 years of age or continuous sexual abuse of a child or involving or using  
37 minors in drug offenses shall be sentenced to a presumptive term of  
38 imprisonment for twenty years. If the convicted person has been previously  
39 convicted of one predicate felony the person shall be sentenced to a  
40 presumptive term of imprisonment for thirty years.

41 D. Except as otherwise provided in this section, a person who is at  
42 least eighteen years of age or who has been tried as an adult and who stands  
43 convicted of a dangerous crime against children in the first degree involving  
44 aggravated assault, molestation of a child, commercial sexual exploitation of  
45 a minor, sexual exploitation of a minor, child abuse or kidnapping shall be

1 sentenced to a presumptive term of imprisonment for seventeen years. If the  
2 convicted person has been previously convicted of one predicate felony the  
3 person shall be sentenced to a presumptive term of imprisonment for  
4 twenty-eight years.

5 E. Except as otherwise provided in this section, a person who is at  
6 least eighteen years of age or who has been tried as an adult and who stands  
7 convicted of a dangerous crime against children involving sexual abuse under  
8 section 13-1404 is guilty of a class 3 felony and shall be sentenced to a  
9 presumptive term of imprisonment for five years, and unless the person has  
10 previously been convicted of a predicate felony, the presumptive term may be  
11 increased or decreased by up to two and one-half years pursuant to section  
12 13-702, subsections B, C, AND D and E. If the person is sentenced to a term  
13 of imprisonment the person is not eligible for release from confinement on  
14 any basis except as specifically authorized by section 31-233, subsection A  
15 or B until the sentence imposed by the court has been served, the person is  
16 eligible for release pursuant to section 41-1604.07 or the sentence is  
17 commuted. If the convicted person has been previously convicted of one  
18 predicate felony the person shall be sentenced to a presumptive term of  
19 imprisonment for fifteen years and is not eligible for suspension of  
20 sentence, probation, pardon or release from confinement on any basis except  
21 as specifically authorized by section 31-233, subsection A or B until the  
22 sentence imposed by the court has been served, the person is eligible for  
23 release pursuant to section 41-1604.07 or the sentence is commuted.

24 F. The presumptive sentences prescribed in subsections B, C and D of  
25 this section or subsection E of this section if the person has previously  
26 been convicted of a predicate felony may be increased or decreased by up to  
27 seven years pursuant to the provisions of section 13-702, subsections B, C  
28 and D.

29 G. Except as provided in subsection E of this section, a person  
30 sentenced for a dangerous crime against children in the first degree pursuant  
31 to this section is not eligible for suspension of sentence, probation,  
32 pardon, or release from confinement on any basis except as specifically  
33 authorized by section 31-233, subsection A or B until the sentence imposed by  
34 the court has been served or commuted.

35 H. A person who stands convicted of any dangerous crime against  
36 children in the first degree pursuant to subsection C or D of this section  
37 having been previously convicted of two or more predicate felonies shall be  
38 sentenced to life imprisonment and is not eligible for suspension of  
39 sentence, probation, pardon or release from confinement on any basis except  
40 as specifically authorized by section 31-233, subsection A or B until the  
41 person has served not fewer than thirty-five years or the sentence is  
42 commuted.

43 I. Notwithstanding chapter 10 of this title, a person who is at least  
44 eighteen years of age or who has been tried as an adult and who stands  
45 convicted of a dangerous crime against children in the second degree pursuant

1 to subsection C or D of this section or luring a minor for sexual  
2 exploitation pursuant to section 13-3554 is guilty of a class 3 felony and  
3 shall be sentenced to a presumptive term of imprisonment for ten years. The  
4 presumptive term may be increased or decreased by up to five years pursuant  
5 to section 13-702, subsections B, C and D. If the person is sentenced to a  
6 term of imprisonment the person is not eligible for release from confinement  
7 on any basis except as specifically authorized by section 31-233, subsection  
8 A or B until the person has served the sentence imposed by the court, the  
9 person is eligible for release pursuant to section 41-1604.07 or the sentence  
10 is commuted. A person who is convicted of any dangerous crime against  
11 children in the second degree having been previously convicted of one or more  
12 predicate felonies is not eligible for suspension of sentence, probation,  
13 pardon or release from confinement on any basis except as specifically  
14 authorized by section 31-233, subsection A or B until the sentence imposed by  
15 the court has been served, the person is eligible for release pursuant to  
16 section 41-1604.07 or the sentence is commuted.

17 J. Section 13-604, subsections M and O apply to the determination of  
18 prior convictions.

19 K. The sentence imposed on a person by the court for a dangerous crime  
20 against children under subsection D of this section involving child  
21 molestation or sexual abuse pursuant to subsection E of this section may be  
22 served concurrently with other sentences if the offense involved only one  
23 victim. The sentence imposed on a person for any other dangerous crime  
24 against children in the first or second degree shall be consecutive to any  
25 other sentence imposed on the person at any time, including child molestation  
26 and sexual abuse of the same victim.

27 L. ~~IN~~ FOR THE PURPOSES OF this section:

28 1. "Dangerous crime against children" means any of the following that  
29 is committed against a minor who is under fifteen years of age:

30 (a) Second degree murder.

31 (b) Aggravated assault resulting in serious physical injury or  
32 involving the discharge, use or threatening exhibition of a deadly weapon or  
33 dangerous instrument.

34 (c) Sexual assault.

35 (d) Molestation of a child.

36 (e) Sexual conduct with a minor.

37 (f) Commercial sexual exploitation of a minor.

38 (g) Sexual exploitation of a minor.

39 (h) Child abuse as prescribed in section 13-3623, subsection A,  
40 paragraph 1.

41 (i) Kidnapping.

42 (j) Sexual abuse.

43 (k) Taking a child for the purpose of prostitution as defined in  
44 section 13-3206.

45 (l) Child prostitution as defined in section 13-3212.

(m) Involving or using minors in drug offenses.

(n) Continuous sexual abuse of a child.

(o) Attempted first degree murder.

(p) SEX TRAFFICKING.

A dangerous crime against children is in the first degree if it is a completed offense and is in the second degree if it is a preparatory offense, except attempted first degree murder is a dangerous crime against children in the first degree.

2. "Predicate felony" means any felony involving child abuse pursuant to section 13-3623, subsection A, paragraph 1, a sexual offense, conduct involving the intentional or knowing infliction of serious physical injury or the discharge, use or threatening exhibition of a deadly weapon or dangerous instrument, or a dangerous crime against children in the first or second degree.

Sec. 2. Title 13, chapter 13, Arizona Revised Statutes, is amended by adding sections 13-1306, 13-1307, 13-1308 and 13-1309, to read:

13-1306. Unlawfully obtaining labor or services; classification

A. IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY OBTAIN THE LABOR OR SERVICES OF ANOTHER PERSON BY DOING ANY OF THE FOLLOWING:

1. CAUSING OR THREATENING TO CAUSE BODILY INJURY TO THAT PERSON OR ANOTHER PERSON.

2. RESTRAINING OR THREATENING TO RESTRAIN THAT PERSON OR ANOTHER PERSON WITHOUT LAWFUL AUTHORITY AND AGAINST THAT PERSON'S WILL.

3. WITHHOLDING THAT PERSON'S GOVERNMENTAL RECORDS, IDENTIFYING INFORMATION OR OTHER PERSONAL PROPERTY.

B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 4 FELONY.

13-1307. Sex trafficking; classification

A. IT IS UNLAWFUL FOR A PERSON TO KNOWINGLY RECRUIT, ENTICE, HARBOR, TRANSPORT, PROVIDE OR OBTAIN BY ANY MEANS ANOTHER PERSON WITH THE INTENT OF CAUSING THE OTHER PERSON TO ENGAGE IN PROSTITUTION BY FORCE, FRAUD OR COERCION.

B. A PERSON WHO VIOLATES THIS SECTION IS GUILTY OF A CLASS 2 FELONY, EXCEPT THAT, IF THE OFFENSE IS COMMITTED AGAINST A PERSON WHO IS UNDER FIFTEEN YEARS OF AGE, THE OFFENSE IS A DANGEROUS CRIME AGAINST CHILDREN PUNISHABLE PURSUANT TO SECTION 13-604.01.

13-1308. Trafficking of persons for forced labor or services; classification; definitions

A. IT IS UNLAWFUL FOR A PERSON TO EITHER:

1. KNOWINGLY TRAFFIC ANOTHER PERSON WITH THE INTENT TO OR KNOWLEDGE THAT THE OTHER PERSON WILL BE SUBJECT TO FORCED LABOR OR SERVICES.

2. KNOWINGLY BENEFIT, FINANCIALLY OR BY RECEIVING ANYTHING OF VALUE, FROM PARTICIPATION IN A VENTURE THAT HAS ENGAGED IN AN ACT IN VIOLATION OF SECTION 13-1306, SECTION 13-1307 OR THIS SECTION.

B. A VIOLATION OF THIS SECTION IS A CLASS 2 FELONY.

C. FOR THE PURPOSES OF THIS SECTION:

1           1. "FORCED LABOR OR SERVICES" MEANS LABOR OR SERVICES THAT ARE  
2 PERFORMED OR PROVIDED BY ANOTHER PERSON AND THAT ARE OBTAINED THROUGH A  
3 PERSON'S EITHER:

4           (a) CAUSING OR THREATENING TO CAUSE SERIOUS PHYSICAL INJURY TO ANY  
5 PERSON.

6           (b) RESTRAINING OR THREATENING TO PHYSICALLY RESTRAIN ANOTHER PERSON.

7           (c) WITHHOLDING FROM ANOTHER PERSON THAT PERSON'S GOVERNMENT RECORDS,  
8 IDENTIFYING INFORMATION OR PERSONAL PROPERTY.

9           2. "TRAFFIC" MEANS TO TRANSPORT ANOTHER PERSON OR TO ENTICE, RECRUIT,  
10 HARBOR, PROVIDE OR OTHERWISE OBTAIN ANOTHER PERSON FOR TRANSPORT BY  
11 DECEPTION, COERCION OR FORCE.

12           13-1309. Restitution

13           THE COURT SHALL ORDER RESTITUTION FOR ANY VIOLATION OF SECTION 13-1306,  
14 13-1307 OR 13-1308, INCLUDING THE GREATER OF EITHER THE GROSS INCOME OR VALUE  
15 TO THE DEFENDANT OF THE VICTIM'S LABOR OR SERVICES OR THE VALUE OF THE  
16 VICTIM'S LABOR AS GUARANTEED UNDER THE MINIMUM WAGE AND OVERTIME PROVISIONS  
17 OF THE FAIR LABOR STANDARDS ACT OF 1938 (52 STAT. 1060; 29 UNITED STATES CODE  
18 SECTIONS 201 THROUGH 219).

19           Sec. 3. Title 13, chapter 23, Arizona Revised Statutes, is amended by  
20 adding section 13-2319, to read:

21           13-2319. Smuggling; classification; definition

22           A. IT IS UNLAWFUL FOR A PERSON TO INTENTIONALLY ENGAGE IN THE  
23 SMUGGLING OF HUMAN BEINGS FOR PROFIT OR COMMERCIAL PURPOSE.

24           B. A VIOLATION OF THIS STATUTE IS A CLASS 4 FELONY.

25           C. FOR THE PURPOSES OF THIS SECTION "SMUGGLING OF HUMAN BEINGS" MEANS  
26 THE TRANSPORTATION OR PROCUREMENT OF TRANSPORTATION BY A PERSON OR AN ENTITY  
27 THAT KNOWS OR HAS REASON TO KNOW THAT THE PERSON OR PERSONS TRANSPORTED OR TO  
28 BE TRANSPORTED ARE NOT UNITED STATES CITIZENS, PERMANENT RESIDENT ALIENS OR  
29 PERSONS OTHERWISE LAWFULLY IN THIS STATE.

APPROVED BY THE GOVERNOR MARCH 14, 2005.

FILED IN THE OFFICE OF THE SECRETARY OF STATE MARCH 14, 2005.

Passed the House March 8, 20 05,

by the following vote: 48 Ayes,

10 Nays, 2 Not Voting



Speaker of the House

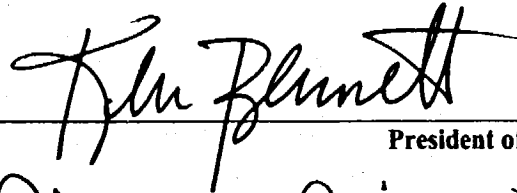


Chief Clerk of the House

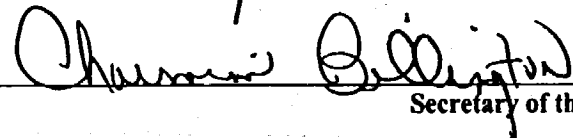
Passed the Senate March 3, 20 05,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting



President of the Senate



Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF GOVERNOR

This Bill was received by the Governor this

8th day of March, 20 05

at 4:28 o'clock P. M.

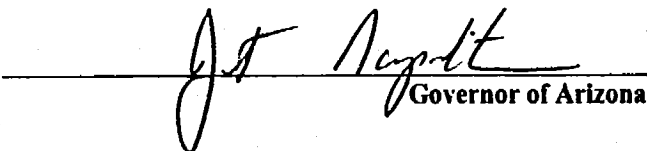


Secretary to the Governor

Approved this 19 day of

March, 20 05,

at 10<sup>15</sup> o'clock A. M.



Governor of Arizona

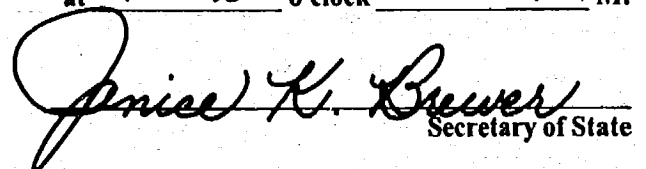
EXECUTIVE DEPARTMENT OF ARIZONA  
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 14th day of March, 20 05,

S.B. 1372

at 12:12 o'clock P. M.



Secretary of State